

SENATE RULES COMMITTEE SUBSTITUTE FOR  
SENATE JOINT MEMORIAL 7

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

A JOINT MEMORIAL

ESTABLISHING A TASK FORCE TO REVIEW THE PROPOSED MODEL STATE  
ADMINISTRATIVE PROCEDURE ACT AND MAKE RECOMMENDATIONS  
CONCERNING THE ADOPTION OF PART OR ALL OF THAT MODEL ACT.

WHEREAS, the health and well-being of New Mexico's people  
and communities depend on the maintenance of a clean and  
healthy environment, strong workers' and public safety  
standards as well as a strong business climate that is  
hospitable to various industries; and

WHEREAS, New Mexico's ability to maintain a clean and  
healthy environment, strong workers' and public safety  
standards and a hospitable business climate depends on the fair  
and predictable administration and enforcement of various state  
laws and regulations; and

WHEREAS, New Mexico statutes and regulations that provide

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1 for and govern rulemaking and adjudications of regulatory  
2 activities lack uniformity, in part because the Administrative  
3 Procedures Act, enacted in 1969, does not apply to most New  
4 Mexico state agencies; and

5 WHEREAS, the national conference of commissioners on  
6 uniform state laws will release the final draft of the Model  
7 State Administrative Procedure Act in 2010 replete with options  
8 for state-specific adoption; and

9 WHEREAS, the people, businesses and communities of New  
10 Mexico deserve to have their policymakers and administrators  
11 review the Model State Administrative Procedure Act in order to  
12 make recommendations concerning the adoption of part or all of  
13 that model act;

14 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
15 STATE OF NEW MEXICO that an administrative procedures task  
16 force be created for 2010; and

17 BE IT FURTHER RESOLVED that the task force consist of  
18 fifteen members as follows:

19 A. three members of the legislature, appointed by  
20 the New Mexico legislative council, provided that no more than  
21 two shall be from the same legislative chamber and two shall be  
22 members of the majority party and one shall be a member of the  
23 minority party;

24 B. the superintendent of regulation and licensing  
25 or the superintendent's designee;

1 C. the secretary of taxation and revenue or the  
2 secretary's designee;

3 D. the state records administrator or the  
4 administrator's designee;

5 E. the secretary of environment or the secretary's  
6 designee;

7 F. the secretary of energy, minerals and natural  
8 resources or the secretary's designee;

9 G. one representative of either the environmental  
10 improvement board or the water quality control commission who  
11 works on administrative procedures in either a rulemaking or  
12 adjudicatory capacity, appointed by the governor;

13 H. one member who is a small business owner or  
14 operator whose business is subject to state regulatory  
15 provisions, appointed by the governor in consultation with the  
16 association of commerce and industry of New Mexico and local  
17 chambers of commerce;

18 I. one member representing the interests of the  
19 judicial branch, appointed by the chief justice of the New  
20 Mexico supreme court;

21 J. two members representing the interests of  
22 different industries affected by regulatory proceedings,  
23 appointed by the governor; and

24 K. two members representing public advocacy groups,  
25 one from a group that advocates for environmental justice and

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1 one from a group that advocates for consumers, appointed by the  
2 governor; and

3 BE IT FURTHER RESOLVED that vacancies on the task force be  
4 filled by appointment of the original appointing authority; and

5 BE IT FURTHER RESOLVED that the office of the attorney  
6 general staff the task force and serve as a technical resource  
7 for the task force; and

8 BE IT FURTHER RESOLVED that a member of the faculty of the  
9 university of New Mexico school of law be appointed by the dean  
10 of the school of law to serve as a technical resource for the  
11 task force; and

12 BE IT FURTHER RESOLVED that the task force be chaired by  
13 the superintendent of regulation and licensing or the  
14 superintendent's designee and that the task force meet at the  
15 call of the chair but not less than three times throughout the  
16 year; and

17 BE IT FURTHER RESOLVED that the task force be requested to  
18 review the current state of rulemaking and adjudicatory  
19 proceedings used by New Mexico agencies; to look at rulemaking  
20 and adjudicatory proceedings in other states; to review the  
21 Model State Administrative Procedure Act and to consider  
22 whether all or part of the proposed act should apply to some or  
23 all New Mexico agencies; to consider whether reform across all  
24 agencies will enhance the consistency and predictability of  
25 regulatory processes and meet the goals necessary to serve New

1 Mexico's people, communities, environment and businesses more  
2 efficiently and effectively; to identify strategies for  
3 improving the essential rulemaking and adjudicatory functions  
4 of state agencies in order to carry out legislative mandates  
5 effectively and efficiently; to determine any necessary  
6 legislative action to improve administrative procedures and to  
7 develop a strategy and time frame for implementation; and to  
8 consider whether agencies engaged in administrative proceedings  
9 have adequate resources to comply with their mandates and the  
10 task force recommendations, including both provision of  
11 thorough, consistent and predictable permitting and enforcement  
12 and whether the fees the agencies are authorized to charge are  
13 sufficient to cover the agencies' costs; and

14 BE IT FURTHER RESOLVED that the administrative procedures  
15 task force be requested to report its findings and  
16 recommendations before October 1, 2010 to an appropriate  
17 legislative interim committee, the legislative finance  
18 committee and the governor; and

19 BE IT FURTHER RESOLVED that a written report of the task  
20 force's findings be posted for public access on the regulation  
21 and licensing department's web site and the legislature's web  
22 site; and

23 BE IT FURTHER RESOLVED that copies of this memorial be  
24 transmitted to the co-chairs of the New Mexico legislative  
25 council, the superintendent of regulation and licensing, the

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1 secretary of taxation and revenue, the state records  
2 administrator, the secretary of environment, the secretary of  
3 energy, minerals and natural resources, the attorney general,  
4 the university of New Mexico school of law, the administrative  
5 office of the courts and the governor.